

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NORMAN PAGAN,

Plaintiff,

-vs-

**No. 1:14-CV-00788 (MAT)
DECISION AND ORDER**

COMMISSIONER OF SOCIAL SECURITY,
Defendant.

Represented by counsel, Norman Pagan ("plaintiff") brings this action pursuant to Titles II and XVI of the Social Security Act ("the Act"), seeking review of the final decision of the Commissioner of Social Security ("the Commissioner") denying his applications for disability insurance benefits ("DIB") and supplemental security income ("SSI"). The Court has jurisdiction over this matter pursuant to 42 U.S.C. § 405(g). The matter was initially before the Court on the parties' cross motions for judgment on the pleadings.¹ The parties' motions were referred to Magistrate Judge Leslie G. Foschio for consideration of the factual and legal issues presented, and to prepare and file a Report and Recommendation ("R&R") containing a recommended disposition of the issues raised.

By R&R dated June 8, 2017, Judge Foschio recommended that the case be remanded solely for the calculation and payment of benefits, for the reasons described therein. Doc. 12. Both parties

¹ This case was originally assigned to Judge Richard Arcara, who referred it to Magistrate Judge Foschio for a Report and Recommendation, which was completed and filed on May 25, 2017. Doc. 12. The case was referred to this Court by order dated June 8, 2017. Doc. 13.

were notified that they were given 14 days within which to file objections; however, neither party has filed an objection.

Within fourteen days after a party has been served with a copy of a magistrate judge's report and recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b). "If no objections are made, . . . a district court need review. . . a report-recommendation only for clear error." Breinin v. Colvin, 2015 WL 7738047, *1 (N.D.N.Y. Dec. 1, 2015). "A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." Id. (quoting 28 U.S.C. § 636(b)).

No objections having been filed, the Court has accordingly reviewed the R&R for clear error and finds none. Accordingly, the R&R (doc. 12) is approved and adopted in its entirety. The Commissioner's motion for judgment on the pleadings (doc. 10) is denied, and plaintiff's motion for judgment on the pleadings (Doc. 8) is granted. This matter is remanded solely for the calculation and payment of benefits. The Clerk of the Court is directed to close this case.

ALL OF THE ABOVE IS SO ORDERED.

S/Michael A. Telesca

HON. MICHAEL A. TELESCA
United States District Judge

Dated: June 29, 2017
Rochester, New York.